

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

SB 3504 - HB 3667

March 8, 2012

SUMMARY OF BILL: Creates the “Millionaires’ Tax Act,” which makes numerous tax law changes including, but not limited to, exempting the retail sale of food and food ingredients from state and local sales tax; eliminating the state single article tax; reallocation of state sales tax revenue; changing the local option sales tax to a tax based on the “aggregate local option sales tax base amount” as defined; reducing the Hall Income Tax rate on income derived from stocks or bonds from six to three percent; implementing a seven percent income tax on all income, except for the first \$1,000,000; specifying other income exemption levels allowed if certain conditions exist; defining of multiple terms related to the proposed income tax; identifying income tax payment requirements for taxpayers, as well as procedures and deadlines; and establishing the allocation methods for income tax revenue to local governments based on the “aggregate base amount local share” as defined.

ESTIMATED FISCAL IMPACT:

Increase State Revenue – Net Impact –

Exceeds \$654,713,600/FY12-13 and Subsequent Years/General Fund

Decrease State Revenue –

Exceeds \$25,000,000/FY12-13 and Subsequent Years/Dept. of Revenue

Increase State Expenditures –

Exceeds \$1,049,702,700/FY12-13/General Fund

Exceeds \$1,058,496,800/Each FY13-14, FY14-15, and FY15-16/General Fund

Exceeds \$1,039,619,600/FY16-17 and Subsequent Years/General Fund

Local Revenue – Net Impact – Not Significant

Increase Local Expenditures – Exceeds \$1,000,000*

Assumptions:

- Based on information provided by the Department of Revenue (DOR), major computer and programming system changes will be required throughout the Department to implement the provisions of this bill. The expertise required for such modifications will require a contracted vendor. The initial one-time increase in state expenditures in FY12-

13 for the beginning stages of such modifications will be \$3,905,400. Additional recurring state expenditures are anticipated for subsequent modifications over the next several years as certain taxes and apportionments are changed or phased out. It is anticipated that such expenditures will be required for a period of three years until the new tax system has been firmly established. Such recurring increase in state expenditures will be \$19,877,200 per year beginning in FY13-14 and ending with FY15-16. Annual maintenance, beginning in FY16-17, is anticipated to exceed \$1,000,000 per year.

- According to DOR, the Department will require considerable additional resources for implementing the provisions of this bill. The Department indicates that 246 additional positions will be required (12 in Taxpayer Verification Services; 38 for the call center regional offices; 37 in the Audit Division; 54 in the Revenue Enforcement Division; 1 in the Legal Division; 6 in Information Technology Resources; and 98 in the Processing Division). The associated recurring increase in state expenditures will be \$15,210,100 (\$7,753,300 salaries, \$3,582,200 benefits; \$3,874,600 operational). The associated one-time increase in state expenditures will be \$7,177,700 (computers, software, communications, supplies, furniture, equipment, etc.).
- According to DOR, state sales tax collections derived from food and food ingredients in FY10-11 were \$489,939,858.44.
- Based on historical growth rates for food sales, retail sales of food and food ingredients grow by two percent per year.
- Under current law, state sales tax collections derived from the retail sale of food and food ingredients is estimated to be \$509,733,429 (\$489,939,858.44 x 102.0% x 102.0%) for FY12-13. Therefore, a recurring decrease in state sales tax revenue of \$509,733,429. This number is assumed to remain constant in subsequent years under current law.
- Pursuant to Tenn. Code Ann. § 67-6-103(a)(3)(A), local governments receive 4.5925 percent of all state sales tax revenue as state-shared sales tax revenue. Given this bill holds local governments harmless from the loss of this revenue, and further requires payment to locals from the General Fund as a result, the recurring increase in state expenditures is estimated to be \$23,409,508 (\$509,733,429 x 4.5925%).
- The net recurring decrease in state sales tax revenue as a result of exempting food and food ingredients from the state sales tax is estimated to be \$486,323,921 (\$509,733,429 - \$23,409,508).
- Under current law, the state single article tax is levied against any single article on the portion of the retail price greater than \$1,600, but no more than \$3,200.
- According to DOR, the state single article tax generated approximately \$38,230,000 in FY09-10.
- The state single article tax rate is currently 2.75 percent.
- Single article taxable sales in FY09-10 were \$1,390,181,818 (\$38,230,000 / 2.75%).
- Three percent average annual growth in single article taxable sales.
- Single article taxable sales in FY12-13 are estimated to be \$1,519,089,207 (\$1,390,181,818 x 103% x 103% x 103%) under current law.
- The recurring decrease in state revenue is estimated to be \$41,774,953 (\$1,519,089,207 x 2.75%).
- The current budgeted estimate for Hall Income Tax collections for FY12-13 is \$215,000,000.

- Given this bill reduces the Hall Income Tax rate from six to three percent, 50 percent of Hall Income Tax revenue will be eliminated. Therefore, a recurring decrease in Hall Income Tax revenue of \$107,500,000 ($\$215,000,000 \times 50.0\%$).
- Pursuant to Tenn. Code Ann. § 67-2-119(a), 62.5 percent of Hall Income Tax revenue is deposited to the General Fund; the remaining 37.5 percent is apportioned to local governments.
- The recurring decrease in Hall Income Tax revenue that would otherwise be deposited to the General Fund is estimated to be \$67,187,500 ($\$107,500,000 \times 62.5\%$).
- The recurring decrease in Hall Income Tax revenue that would otherwise be apportioned to local governments is estimated to be \$40,312,500 ($\$107,500,000 \times 37.5\%$). It is assumed the proposed apportionment to local governments of revenue derived from the newly proposed income tax will offset this loss of revenue.
- Based on other information provided by DOR, the recurring increase in state revenue derived from the newly-proposed income tax is reasonably estimated to exceed \$1,250,000,000 (from the proposed state income tax).
- The net recurring increase in state revenue is estimated to exceed \$654,713,626 [$\$1,250,000,000 - (\$486,323,921 + \$41,774,953 + \$67,187,500)$].
- According to DOR, the Department will lose fee revenue for the collection of local option sales tax for local governments. The recurring decrease in state revenue to DOR is estimated to exceed \$25,000,000.
- The increase in state expenditures for holding local governments harmless from the loss of revenue is unknown due to multiple unknown factors; however, the total increase in state expenditures from the General Fund for holding local governments harmless, from the loss of state and local sales tax revenue (on non-food goods and services) and from the loss of Hall Income Tax revenue, is reasonably estimated to exceed \$1,000,000,000 per year.
- The total increase in state expenditures from the General Fund for FY12-13 is estimated to exceed \$1,049,702,708 ($\$3,905,400 + \$15,210,100 + \$7,177,700 + \$23,409,508 + \$1,000,000,000$).
- The recurring increase in state expenditures from the General Fund beginning in FY13-14, and running through FY15-16, is estimated to exceed \$1,058,496,808 ($\$19,877,200 + \$15,210,100 + \$23,409,508 + \$1,000,000,000$).
- The recurring increase in state expenditures from the General Fund beginning in FY16-17 and subsequent years is estimated to exceed \$1,039,619,608 ($\$1,000,000 + \$15,210,100 + \$23,409,508 + \$1,000,000,000$).
- Any net change in local government revenue is estimated to be not significant due to the multiple hold harmless provisions specified in this bill.
- The recurring increase in local government expenditures is unknown due to multiple unknown factors; however, the recurring increase in local expenditures to implement and administer the provisions of this bill is reasonably estimated to exceed \$1,000,000 per year.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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